

AMENDED IN ASSEMBLY JUNE 2, 2003
AMENDED IN ASSEMBLY MARCH 24, 2003
CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 378

Introduced by Assembly Member Steinberg
(Coauthors: Assembly Members Chavez, Mullin, Pavley, and
Runner)
(Coauthor: Senator Kuehl)

February 14, 2003

~~An act to amend Sections 17070.75 and 17070.77 of the Education Code, relating to school facilities, and declaring the urgency thereof, to take effect immediately. An act to amend Sections 1520 and 1530 of, and to add Section 1515.5 to, the Code of Civil Procedure, relating to escheats.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 378, as amended, Steinberg. ~~School facilities: maintenance~~
Escheat: insurance.

Under the Unclaimed Property Law, specified intangible property that is held or owing in the ordinary course of the holder's business, and that has remained unclaimed by the owner for more than 3 years after it became payable or distributable, escheats to the state.

This bill would establish a presumption that unclaimed intangible property payable or distributable in the course of the demutualization of an insurance corporation is abandoned 3 years after either the date of last contact with the policyholder or the date the property became payable or distributable, whichever is earlier.

Existing law requires every person holding funds or other property escheated to the state to file an annual report, but establishes a separate reporting period for life insurance corporations.

This bill would expand the latter provision to apply to the report of all insurance corporation demutualization proceeds subject to the above presumption.

~~Existing law requires the State Allocation Board to require a school district to make all necessary repairs, renewals, and replacements to ensure that a school facilities construction project funded under the Leroy F. Greene School Facilities Act of 1998 is at all times kept in good repair, working order, and condition. Existing law requires all costs incurred for those purposes to be borne by the school district.~~

~~Existing law requires the board to ensure compliance with that requirement by requiring an applicant school district to establish an account and agree to deposit into the account, in each fiscal year for 20 years after receipt of funds under the act, a minimum amount equal to or greater than 3% of the applicant school district's total general fund expenditures, including other financing uses, for that fiscal year, prior to the approval of a project.~~

~~This bill would, instead, require the school district to deposit into the account in each fiscal year for 20 years after the receipt of funds under the act, 3% of the total expenditures by a district from its general fund for that fiscal year. The bill would specify that the total expenditures by a school district from its general fund do not include expenditures from restricted accounts within the general fund, unless the funds in those restricted accounts may be used for capital expenditures and do not include the amounts expended from the account.~~

~~Existing law requires a school district to certify that it has publicly approved an ongoing and major maintenance plan that outlines the use of the funds deposited, or to be deposited in the account. Existing law defines major maintenance, for these purposes to mean all actions necessary to keep roofing, siding, painting, floor and window coverings, fixtures, cabinets, heating and cooling systems, landscaping, fences, and other items designated by the governing board of the school district in good repair.~~

~~This bill would revise that definition to mean repair and all costs of maintaining the facility, grounds, and equipment associated with each school district site in working order.~~

~~The bill would declare that it is to take effect immediately as an urgency statute.~~

Vote: ~~2~~/₃ majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

~~SECTION 1. Section 17070.75 of the Education Code is~~

SECTION 1. *Section 1515.5 is added to the Code of Civil Procedure, to read:*

1515.5. Unclaimed property payable or distributable in the course of the demutualization of an insurance corporation is presumed abandoned three years after either the date of last contact with the policyholder or the date the property became payable or distributable, whichever is earlier.

SEC. 2. *Section 1520 of the Code of Civil Procedure is amended to read:*

1520. (a) All tangible personal property located in this state and, subject to Section 1510, all intangible personal property, except property of the classes mentioned in Sections 1511, 1513, 1514, 1515, 1515.5, 1516, 1517, 1518, 1519, and 1521, including any income or increment thereon and deducting any lawful charges, that is held or owing in the ordinary course of the holder's business and has remained unclaimed by the owner for more than three years after it became payable or distributable escheats to this state.

(b) Except as provided in subdivision (a) of Section 1513.5 and subdivision (d) of Section 1516, if the holder has in its records an address for the apparent owner of property valued at fifty dollars (\$50) or more, which the holder's records do not disclose to be inaccurate, the holder shall make reasonable efforts to notify the owner by mail that the owner's property will escheat to the state pursuant to this chapter. The notice shall be mailed not less than six nor more than 12 months before the time when the owner's property held by the business becomes transferable to the Controller in accordance with this chapter. The notice required by this subdivision shall specify the time when the property will escheat and the effects of escheat, including the need to file a claim in order for the owner's property to be returned to the owner. The notice required by this section shall, in bold or in a font a minimum of two points larger than the rest of the notice, (1) specify that since the date of last activity, or for the last two years, there has been no

1 customer activity on the deposit, account, shares, or other interest;
2 (2) identify the deposit, account, shares, or other interest by
3 number or identifier; (3) indicate that the deposit, account, shares,
4 or other interest is in danger of escheating to the state; and (4)
5 specify that the California Unclaimed Property Law requires
6 banks, banking organizations, and financial organizations to
7 transfer funds of a deposit, account, shares, or other interest if it
8 has been inactive for three years. It shall also include a form, as
9 prescribed by the Controller, by which the owner may confirm the
10 owner's current address. If that form is filled out, signed by the
11 owner, and returned to the holder, it shall be deemed that the
12 account, or other device in which the owner's property is being
13 held, remains currently active and recommences the escheat
14 period.

15 (c) For purposes of this section, "lawful charges" means
16 charges which are specifically authorized by statute, other than the
17 Unclaimed Property Law, or by a valid, enforceable contract.

18 *SEC. 3. Section 1530 of the Code of Civil Procedure is*
19 *amended to read:*

20 1530. (a) Every person holding funds or other property
21 escheated to this state under this chapter shall report to the
22 Controller as provided in this section.

23 (b) The report shall be on a form prescribed or approved by the
24 Controller and shall include:

25 (1) Except with respect to travelers checks and money orders,
26 the name, if known, and last known address, if any, of each person
27 appearing from the records of the holder to be the owner of any
28 property of value of at least fifty dollars (\$50) escheated under this
29 chapter.

30 (2) In case of escheated funds of life insurance corporations,
31 the full name of the insured or annuitant, and his or her last known
32 address, according to the life insurance corporation's records.

33 (3) In the case of the contents of a safe deposit box or other
34 safekeeping repository or in the case of other tangible property, a
35 description of the property and the place where it is held and may
36 be inspected by the Controller. The report shall set forth any
37 amounts owing to the holder for unpaid rent or storage charges and
38 for the cost of opening the safe deposit box or other safekeeping
39 repository, if any, in which the property was contained.



(4) The nature and identifying number, if any, or description of any intangible property and the amount appearing from the records to be due, except that items of value under fifty dollars (\$50) each may be reported in aggregate.

(5) Except for any property reported in the aggregate, the date when the property became payable, demandable, or returnable, and the date of the last transaction with the owner with respect to the property.

(6) Other information which the Controller prescribes by rule as necessary for the administration of this chapter.

(c) If the holder is a successor to other persons who previously held the property for the owner, or if the holder has changed his or her name while holding the property, he or she shall file with his or her report all prior known names and addresses of each holder of the property.

(d) The report shall be filed before November 1 of each year as of June 30 or fiscal year-end next preceding, but the report of life insurance corporations, *and the report of all insurance corporation demutualization proceeds subject to Section 1515.5*, shall be filed before May 1 of each year as of December 31 next preceding. The Controller may postpone the reporting date upon his or her own motion or upon written request by any person required to file a report.

(e) The report, if made by an individual, shall be verified by the individual; if made by a partnership, by a partner; if made by an unincorporated association or private corporation, by an officer; and if made by a public corporation, by its chief fiscal officer or other employee authorized by the holder.

~~amended to read:~~

~~17070.75.—(a) The board shall require the school district to make all necessary repairs, renewals, and replacements to ensure that a project is at all times kept in good repair, working order, and condition. All costs incurred for this purpose shall be borne by the school district.~~

~~(b) In order to ensure compliance with subdivision (a) and to encourage school districts to maintain all buildings under their control, the board shall require an applicant school district to do all of the following prior to the approval of a project:~~

~~(1) Establish a restricted account within the school district's general fund for the exclusive purpose of providing moneys for~~

1 ongoing and major maintenance of school buildings, according to
2 highest priority to funding for the purposes set forth in subdivision
3 (a):

4 (2) ~~Agree to deposit into the account established pursuant to~~
5 ~~paragraph (1) in each fiscal year for 20 years after the receipt of~~
6 ~~funds under this chapter, an amount no less than 3 percent of the~~
7 ~~total expenditures by a district from its general fund for that fiscal~~
8 ~~year. For purposes of this subdivision, the total expenditures by a~~
9 ~~school district from its general fund do not include expenditures~~
10 ~~from restricted accounts within the general fund, unless the funds~~
11 ~~in those restricted accounts may be used for capital expenditures~~
12 ~~and do not include the amounts expended from the account~~
13 ~~established pursuant to this section. The expenditure by a school~~
14 ~~district of any apportionments from the state for instances of~~
15 ~~extreme hardship pursuant to Section 17587 are not within the total~~
16 ~~expenditures by a school district from its general fund and may not~~
17 ~~be credited as deposits in the account established by this section.~~
18 ~~Annual deposits to the fund established pursuant to paragraph (1)~~
19 ~~in excess of 2½ percent of the district general fund budget may~~
20 ~~count towards the district's matching funds requirement necessary~~
21 ~~to receive apportionments from the State School Deferred~~
22 ~~Maintenance Fund pursuant to Section 17584 to the extent that~~
23 ~~funds are used for purposes that qualify for funding under that~~
24 ~~section. In addition, any district contribution to this fund may be~~
25 ~~provided in lieu of meeting the ongoing maintenance requirements~~
26 ~~pursuant to Section 17014 to the extent the funds are used for~~
27 ~~purposes established in that section. A school district that serves~~
28 ~~as the administrative unit for a special education local plan area~~
29 ~~may elect to exclude from its total general fund expenditures, for~~
30 ~~purposes of this paragraph, the distribution of revenues that are~~
31 ~~passed through to participating members of the special education~~
32 ~~local plan area. This paragraph is applicable only to the following~~
33 ~~school districts:~~

34 (A) ~~High school districts with an average daily attendance~~
35 ~~greater than 300 pupils.~~

36 (B) ~~Elementary school districts with an average daily~~
37 ~~attendance greater than 900 pupils.~~

38 (C) ~~Unified school districts with an average daily attendance~~
39 ~~greater than 1,200 pupils.~~

~~(3) Certify that it has publicly approved an ongoing and major maintenance plan that outlines the use of the funds deposited, or to be deposited, pursuant to paragraph (2). The plan may provide that the district need not expend all of its annual allocation for ongoing and major maintenance in the year in which it is deposited if the cost of major maintenance requires that the allocation be carried over into another fiscal year. However, any state funds carried over into a subsequent year shall not be counted toward the annual minimum contribution by the district. A plan developed in compliance with this section shall be deemed to meet the requirements of Section 17585.~~

~~(c) A district to which paragraph (2) of subdivision (b) does not apply shall certify to the board that it can reasonably maintain its facilities with a lesser level of maintenance.~~

~~SEC. 2.—Section 17070.77 of the Education Code is amended to read:~~

~~17070.77. (a) For each project funded after January 1, 2002, the board shall require the applicant school district governing board to certify, as part of the school district's annual budget process and beginning in the fiscal year in which the project is funded by the state, that it is in compliance with the plan adopted pursuant to paragraph (3) of subdivision (b) of Section 17070.75 for completing major maintenance requirements for the project.~~

~~(b) For purposes of this chapter, the term "major maintenance" means repair and all costs of maintaining the facility, grounds, and equipment associated with each school district site in working order.~~

~~(c) The board shall require the school district's governing board to certify that the plan includes and is being implemented with all of the following components:~~

~~(1) Identification of the major maintenance needs for the project.~~

~~(2) Specification of a schedule for completing the major maintenance.~~

~~(3) Specification of a current cost estimate for the scheduled major maintenance needs.~~

~~(4) Specification of the school district's schedule for funding a reserve to pay for the scheduled major maintenance needs.~~

~~(5) Review of the plan annually, as a part of the school district's annual budget process, and update, as needed, the major~~

1 ~~maintenance needs, the estimates of expected costs, and any~~
2 ~~adjustments in funding the reserve.~~

3 ~~(6) Availability for public inspection of the original plan, and~~
4 ~~all updated versions of the plan, at the office of the superintendent~~
5 ~~of the school district during the working hours of the school~~
6 ~~district.~~

7 ~~(7) Provision in the school district's annual budget for the~~
8 ~~reserve that contains the total funding available for scheduled~~
9 ~~major maintenance needs as specified in the updated plan, and an~~
10 ~~explanation if this amount of the reserve is less than that specified~~
11 ~~in the updated plan.~~

12 ~~SEC. 3. This act is an urgency statute necessary for the~~
13 ~~immediate preservation of the public peace, health, or safety~~
14 ~~within the meaning of Article IV of the Constitution and shall go~~
15 ~~into immediate effect. The facts constituting the necessity are:~~

16 ~~In order to permit school districts to alleviate the fiscal~~
17 ~~constraints on the use of general funds not needed to maintain~~
18 ~~school district facilities, it is necessary that this act go into~~
19 ~~immediate effect.~~

